



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*86 Chambers Street, 3rd floor
New York, NY 10007*

April 12, 2021

BY ECF

Hon. John G. Koeltl
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007-1312

Application granted.

SO ORDERED.

New York, New York /s/ John G. Koeltl
April 13, 2021 John G. Koeltl,
U.S.D.J.

Re: *Cruz Roman v. Comm'r of Soc. Sec.*, No. 20 Civ. 6907 (JGK)

Dear Judge Koeltl:

This Office represents the Commissioner of Social Security (the "Commissioner"), the defendant in the above-referenced action brought pursuant to 42 U.S.C. § 405(g), in which the plaintiff appeals the Commissioner's decision to deny her application for Social Security disability benefits.

I respectfully write to request, with the plaintiff's consent, a 60-day extension of time for the Commissioner to file the certified administrative record in this case, from April 12, 2021, to June 11, 2021. The extension is needed because of delays in preparing the certified administrative record due to temporary workplace changes implemented by the Social Security Administration in response to the COVID-19 pandemic. As described in the attached Declaration of Jebby Rasputnis, dated February 10, 2020, these changes have significantly impacted the operations of the Social Security Administration's Office of Appellate Operations ("OAO") and materially affected its ability to prepare certified administrative records and to obtain transcriptions of hearing recordings from private contractors. The OAO has taken steps to increase its capacity to prepare administrative records and is now producing records at a pre-pandemic levels, but the combination of the pandemic and an increased number of cases filed in federal court have resulted in a significant backlog that the OAO is still working to address.

The plaintiff consents to this request for an extension. This is the Commissioner's second request for an extension of the time in this case. The Court previously granted the Commissioner a 60-day extension of time to file the certified administrative record. (Dkt. No. 11.)

I thank the Court for its consideration of this request.

Respectfully,

AUDREY STRAUSS
United States Attorney

BY: /s/ Amanda F. Parsels
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Attorney for Plaintiff

DECLARATION OF JEBBY RASPUTNIS
OFFICE OF APPELLATE OPERATIONS
SOCIAL SECURITY ADMINISTRATION

I, JEBBY RASPUTNIS, Executive Director of the Social Security Administration's Office of Appellate Operations (OAO), declare and state as follows:

- 1) My office is responsible for, among other things, preparing certified copies of administrative records (CARs) for Federal court review when claimants appeal the final decisions of the Commissioner of Social Security.
- 2) Beginning in Mid-March of 2020, the Social Security Administration (agency) restricted physical access to our buildings because of the COVID-19 pandemic. Since that time, OAO has been working to overhaul, redo, refine, and streamline our business processes to continue operations and meet our mission to serve the public. Despite many challenges in transitioning to a completely new business process, we have reached and surpassed pre-pandemic levels of electronic CAR production. In the first quarter of fiscal year 2021, we processed 5,270 cases. As comparison, in the first quarter of fiscal year 2020 we processed 4,098 cases and in the first quarter of fiscal year 2019 we processed 3,970. In January of 2021, we processed slightly over 1500 cases.
- 3) As we worked to transition this workload, and our external vendors, to a fully virtual process, the number of new cases filed in federal court also increased¹. In the last quarter of fiscal year 2020 and the first quarter of fiscal year 2021, we averaged more than 2,257 new case receipts per month, compared to an average of 1,458 new case receipts in the

¹ See *Chief Justice Roberts' 2020 Year-End Report on the Federal Judiciary, Appendix Workload of the Courts*, available at <https://www.supremecourt.gov/publicinfo/year-end/2020year-endreport.pdf> ("Cases with the United States as defendant grew 16% [in FY20], primarily reflecting increases in social security cases and prisoner petitions.")

last quarter of fiscal year 2019 and the first quarter of fiscal year 2020.

https://www.ssa.gov/appeals/DataSets/08_National_New_Court_Cases_and_Remands.html.

- 4) Consequently, while we are now producing electronic CARs at/above pre-pandemic levels, we continue to experience a backlog due to the combination of increased new case receipts and our difficulties transitioning our processes and vendors to an electronic process. As of January 31, 2021, we have a backlog of more than 11,100 cases.
- 5) Much of the delay and uncertainty in the CAR production process has stemmed from how we transmit hearing recordings to our vendors, and how our vendors return completed transcripts to us. Prior to the pandemic, we produced CDs of the recordings in the office and the vendors returned paper transcripts to us. When the pandemic started, we tested and implemented a secure email process for transmitting the recordings, but, we, and the vendors, experienced systems issues requiring file chunking and delaying transmission. Despite difficulties in transmitting recordings, we were able to update all of our vendor agreements to allow for electronic return of completed transcripts. We implemented a remote CD preparation process for transmitting recordings to the vendors while continuing to explore other electronic transmission options. After several months of piloting new processes, updating vendor agreements, and making staffing changes, we have recently implemented the following:
 - a. We eliminated the need for OAO staff to burn CDs of the administrative hearing recordings for distribution to the vendors. As of this declaration, all five of our transcription vendors now have secure access to the audio files of the hearing recordings. While we continued to use a CD process, manual

sorting of thousands of CDs of hearing recordings resulted in difficulty prioritizing and transmitting the oldest cases for delivery to the vendors.

Although each contractor works at a different speed based on their individual staffing situations, our new, secure, direct access process ensures streamlined prioritization and also eliminates CD transmittal times;

- b. In addition to our five vendors, we established an in-house transcription cadre of 40 employees. We are leveraging the use of new foot pedals (allowing the cadre members to more easily/quickly navigate recordings) and auto-transcription software, which we estimate will increase the productivity of this cadre by 50% by the end of February;
- c. We have requested the assistance, as they are able, of the agency's closed captioning staff to assist with transcription typing;
- d. We continue to work with each of our vendors to maximize their productivity and, recently, each of our five vendors has agreed, in varying amounts, to increase their capacity, as they are able;
- e. We are currently working with the agency's Office of Acquisition and Grants to add a sixth vendor before the end of the fiscal year;
- f. We have recently hired an additional four Civil Action Assistants to assist with this workload and are in the process of transitioning additional staff to the in-house transcription cadre.

- 6) Although we remain subject to some constraints, we continue to work on increasing productivity by collaborating with our vendors and searching out and utilizing technological enhancements. We ask for continued patience as we work to increase our

efficiency and production of CARs, reduce the current backlog, and address rising court case filings.

In accordance with 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated February 10, 2021

/s/ Jebby Rasputnis
Jebby Rasputnis